

**ORDER BELOW EX. 21 IN CIVIL MISC. APPLICATION  
NO. 111 OF 2024**

Shri. Dashrath Mukunda Palve ...Appellant

vs.

Shri. Somnath Bhikaji Fadol + 2 ...Respondents

Sau. Alka Gajiram Malunjkar ...Applicant

01] Perused the application for addition of parties in the present Civil Misc. Application for condonation of delay to file appeal. Perused the say filed by the original petitioner and the respondents. Heard both the parties at length. The original petitioner and respondents have stated that the present proposed party has played fraud on the original petitioner and obtained forged power of attorney, agreement for sale and other documents. Already, the court decreed the matter in favour of the respondents and sale deed through court is executed. Also, petitioner and respondents have settled the matter and wants to withdraw the petition. Whereas the petitioner has stated that the suit was filed in the year 2011 and he purchased suit property No. 1A on 11.10.2012 and regarding suit property No. 1B, the original petitioner executed agreement for sale in favour of the proposed party on 07.12.2021 along with registered power of attorney. So, it appears to the court that, the present petitioner is purchaser *Pendente lite* and has interest in the subject matter. The counsel for original petitioner has relied on the ratio of **Kasturi v Iyyamperumal and others reported in AIR 2005 Supreme Court 2813** in which the Hon'ble S. C. held that third party claiming

independent title and possession over the property is neither proper party nor necessary party. In this regard, I want to state that the present proposed applicant is not claiming independent right, title, but, claiming right title and interest through the original applicant. More so, the position in **Kasturi (supra)** has later on changed in several judgments of Hon'ble S. C. and the purchaser *Pendente lite* is proper and necessary party. In this context, the counsel for proposed party has relied on the ratio of **T. Vijendradas vs. Subramanian reported in 2007 CJ(SC) 1300 and Prem Kaliaandas Daryanani vs. Natvarial C. Modi & Ors. reported in 2015 CJ(Bom) 507.** The Hon'ble Bombay High Court in **Prem (supra)** held that the subsequent purchaser can be ordered to be implicate as proper party so as to decide the issue of enforceability of the agreement for sale.

02] So looking to the above position, it appears that, the proposed party is proper and necessary party and has right to contest the delay condonation application to file the appeal as he is the purchaser *pendente lite*. Hence, the following order.

**ORDER**

- 01] The application is allowed.
- 02] The proposed party be added as party applicant in this case.
- 03] She should carry out necessary amendment in the petition till next date.

Date : 26.09.2024

(R. R. Rathi)  
District Judge-7, Nashik